

Internal Revenue Service

Department of the Treasury

District
Director

387117-017 Brooklyn, NY 11201

P.O. Box 1680 Brooklyn, NY 11202

Date: SEP 29 1983

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(6) of the Internal Revenue Code of 1954.

The evidence presented disclosed that you were incorporated under the laws of the State of [REDACTED]. Your purposes are to unite in a common organization, those [REDACTED] dealers engaged in the transmission repair business pursuant to Franchise Agreement entered with [REDACTED], formerly [REDACTED] in the [REDACTED] area of dominant influence (A.D.I.) as defined by Arbitron, and the respective dealers (members) Franchise Agreement, which is commonly referred to as the [REDACTED] to promote good fellowship, cooperation in mutual interests among its members, and foster in advance the trade and commerce of its members; to fulfill the requirements of each member under his Franchise Agreement with [REDACTED] to pay his proportionate share of the local advertising in the [REDACTED] by adopting a local advertising budget for said area and placing appropriate advertising with the media; to encourage the exchange of ideas among its members for the common good and welfare, and to establish a central agency for securing, classifying and disseminating to its members trade, credit and other information essential for the purposes and the adequate conduct of their businesses.

Your membership consists of entities that own and operate at least one [REDACTED] franchise in the [REDACTED] area of dominant influence (A.D.I.) as defined by Arbitron (a communications rating service). Your principal activity is conducting cooperative advertising campaigns for the benefit of your members. Your income is primarily from dues and assessments. Your expenditures are almost exclusively for advertising costs.

Section 501(c)(6) of the Internal Revenue Code 1954 provides for exemption from Federal income tax of business leagues, chambers of commerce, real estate boards and boards of trade, or professional football leagues (whether or not administering a pension fund for football players) not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having some common business interest, the purpose of which is to promote such common interest and not engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus its activities should be directed to the improvement of business conditions of one or more lines of businesses as distinguished from the performance of particular services for individual persons.

In National Muffler Dealers Association, Inc. v. U.S., 440 U.S. 472 (1979) the Supreme Court affirmed the Second Circuit Case, holding that a trade association acting to improve business conditions for a single brand or product within a line of business does not qualify for exemption under 501(c)(6).

Rev. Rul. 64-315, 1964-2 C.B. 147 describes an association of merchants of a shopping center, which expended its funds and engaged exclusively in advertising in various newspapers and on television and radio in order to attract customers to the shopping center. This advertising contained the names of member merchants and their merchandise. The organization did not qualify for exemption because its activity constituted the performance of particular services for members rather than an activity directed to the improvement of business conditions generally.

In Rev. Rul. 65-14, 1965-1 C.B. 236, an organization formed to promote the tourist industry in its area and whose principal activity was the publication of a year book consisting of paid advertisements for its members was denied exemption under section 501(c)(6). The publication of advertising matter containing listings of the names of individual members constituted advertising for the individuals so advertised and was thus considered the performance of particular services for such individuals rather than the improvement of general business conditions.

On the basis of evidence presented, your organization does not meet the requirement that an organization must serve to improve business conditions in a line of business. By advertising the services connected with a particular brand of product, your organization's activities are directed to improving conditions in only a segment of a line of business. The Supreme Court has affirmed in the case cited above that tax exemption is not available to aid one group in competition with another within an industry, as for example, the transmission industry. Thus you do not meet the line of business test.

In addition, your organization is engaged in advertising for the benefit of your members. In so doing it is performing particular services for members in an activity similar to that described in Rev. Ruls. 64-315 and 65-14. Such advertising is a service members would otherwise have to perform for themselves. An organization which performs particular services for its members is not an organization described in section 501(c)(6). For these reasons we hold that your organization does not qualify for exemption under 501(c)(6). Accordingly, you must file Federal income tax returns on Form 1120.

If you do not agree with the determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

Sincerely yours,

 7d

District Director

Enclosure: Publication 892